

NOTICE OF LEGISLATIVE MANDATES CONTAINED IN THE FY 2004
CONSOLIDATED APPROPRIATIONS RESOLUTION P.L. 108-199; SIGNED January
23, 2004

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NOTICE: NOT-OD-04-026

National Institutes of Health (NIH)
(<http://www.nih.gov/>)

The intent of this Notice is to provide information on the following statutory provisions that limit the use of funds on National Institutes of Health (NIH) grant, cooperative agreement, and contract awards for FY 2004. The legislative mandates for FY 2003 were published on March 18, 2003, NIH Guide Notice, [NOT-OD-03-035](#):

- (1) Continued Salary Limitation (204)
- (2) Anti-Lobbying (Section 503)
- (3) Restriction on Distribution of Sterile Needles (Section 505)
- (4) Purchase of American –Made Equipment and Products (Section 506)
- (5) Acknowledgment of Federal Funding (Section 507)
- (6) Restriction on Abortions (Section 508)
- (7) Ban on Funding Human Embryo Research (Section 510)
- (8) Limitation on Use of Funds for Promotion of Legalization of Controlled Substances (Section 511)

(1) CONTINUED SALARY LIMITATION (Section 204)

"None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I." Executive Level I of the Federal Executive Pay Scale effective October 1, 2003 through December 31, 2004 was \$171,900. Effective January 1, 2004, this amount increased to \$174,500. Applications and proposals with categorical direct cost budgets reflecting direct salaries for individuals in excess of Executive Level I per year will be adjusted in accordance with the legislative salary limitation. Please refer to NIH GUIDE NOTICE, [NOT-OD-04-025](#).

(2) ANTI-LOBBYING (Section 503)

"No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State

legislature itself. In addition, no part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature."

(3) RESTRICTION ON DISTRIBUTION OF STERILE NEEDLES (Section 505)

"Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug."

(4) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS (Section 506)

"(a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made. (b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress. (c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations."

(5) ACKNOWLEDGMENT OF FEDERAL FUNDING (Section 507)

"When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state:

(1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources."

(6) RESTRICTION ON ABORTIONS (Section 508)

"(a) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated under this Act, shall be expended for any abortion."

(7) BAN ON FUNDING OF HUMAN EMBRYO RESEARCH (Section 510)

This section continues the current ban that prohibits NIH from using appropriated funds to support human embryo research. No grant, cooperative agreement, or contract funds may be used for: "(a)(1) the creation of a human embryo or embryos for research purposes; or (2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.208(a)(2) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)). (b) For purposes of this section, the term "human embryo or embryos" includes any organism not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells."

The NIH has published final guidelines on stem cell research that relates to this topic. The URL is <http://stemcells.nih.gov/index.asp>.

(8) LIMITATION ON USE OF FUNDS FOR PROMOTION OF LEGALIZATION OF CONTROLLED SUBSTANCES (Section 511)

"(a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C.812). (b)The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage."

INQUIRIES

For more information on grants policy, please visit:
<http://grants.nih.gov/grants/policy/policy.htm>. For more information on contracts policy, please visit:
<http://ocm.od.nih.gov/contracts/contract.htm>.

If additional questions remain, after visiting the posted websites, please contact the awarding grants or contracts management office in the appropriate NIH Institutes and Centers.

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